

1 UNITED STATES BANKRUPTCY COURT

2 EASTERN DISTRICT OF NEW YORK

3 Case No. 8-16-75545-reg

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5 In the Matter of:

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7 DOWLING COLLEGE

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9 Debtor.

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14 United States Bankruptcy Court

15 290 Federal Plaza

16 Central Islip, New York 11722

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18 March 30, 2017

19 1:08 PM - 1:45 PM

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23 B E F O R E:

24 HON. ROBERT E. GROSSMAN

25 U.S. BANKRUPTCY JUDGE

1 HEARING re [248] Order Scheduling a Hearing on Shorten Notice:
2 [246] Motion to Authorize/Direct Debtor's Application for Entry
3 of an Order Approving a Termination Fee and Expense
4 Reimbursement to Vanderbilt Palace LLC in Accordance with the
5 Terms of the Purchase Agreement by Lauren Catherine Kiss on
6 behalf of Dowling College. [247] Motion to Authorize/Direct Ex
7 Parte Motion of the Debtor to Shorten Time with Respect to the
8 Hearing.

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25 Transcribed by: Sonya Ledanski Hyde

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8 BY: RONALD J FRIEDMAN

P R O C E E D I N G S

MR. SOUTHARD: Good afternoon, Your Honor.

CLERK: Dowling College.

MR. SOUTHARD: Good afternoon, Your Honor. Sean Southard of Klestadt Winters Jureller Southard & Stevens, on behalf of Dowling College, the Debtor in Possession.

MR. MCCORD: Good afternoon, Your Honor. I'm Richard McCord for ACA Financial Guaranty Corp.

MR. FRIEDMAN: Good afternoon, Your Honor. Ronald Friedman from Silverman Acampora, counsel for the Creditors Committee.

MR. FRANKEL: Mark Frankel, Backenroth Frankel & Krinsky, attorneys for Vanderbilt Palace LLC, potential purchaser.

MR. YANG: Good afternoon, Your Honor, Stan Yang, I'm the Trustee.

MR. KLEINBERG: Howard Kleinberg, Meyer Suozzi, for the Dowling College Board of Trustees.

CLERK: Please state your phone appearance.

MR. HAMMEL: Yes, good afternoon. Ian Hammel on behalf of UMB Bank as indenture Trustee.

THE COURT: Okay.

MR. SOUTHARD: Thank you, Your Honor. Once again for the record, Sean Southard on behalf of the Debtor, Dowling College. Your Honor, we're here this afternoon

1 before you on the Debtor's application for entry of an order
2 approving a termination fee and expense reimbursement in
3 relation to a proposed stalking horse agreement that the
4 Debtor entered into with Vanderbilt Palace, LLC, subject to
5 Your Honor's consideration today. That motion was docketed
6 at Number 246 and filed on March 24th of this year.

7 As Your Honor is aware, the stalking horse
8 application relates to the Debtor's sale of its Oakdale
9 campus, which is, approximately, 25 acres located at 150
10 Idle Hour Boulevard, a short distance from the courthouse.
11 Your Honor will recall that as of the petition date, the
12 Debtor had filed a motion seeking to put in place procedures
13 related to the proposed sale of the Oakdale campus.

14 Your Honor then later entered a form of bidding
15 procedures order which has guided the Debtors in their
16 marketing and sale efforts associated with the Oakdale
17 campus. And per the authority that was granted under the
18 bidding procedures order, the schedule of that proposed
19 process was modified slightly recently whereby the bid
20 deadline was extended by two business days, and the auction
21 was likewise adjourned for two businesses days -- such that
22 yesterday was the bid deadline for competing bids and
23 Tuesday of next week will be the auction for this property.

24 Your Honor, that schedule is modified at least in
25 part to address what was a fairly late entry into a stalking

1 horse agreement with the proposed stalking horse, Vanderbilt
2 Palace. That motion, as we mentioned, was filed on Friday
3 of last week and Your Honor was good enough to hear us on
4 short notice today for the purposes of considering
5 essentially the bid protections associated with that
6 proposed stalking horse.

7 Your Honor, the bid procedures order that you
8 previously entered did contemplate the possibility of a
9 stalking horse bid, although it did not require one, and the
10 Debtor's real estate brokers involved in the marketing of
11 the Oakdale campus, A&G Realty Partners and Madison Hart
12 Partners have been actively marketing the Oakdale campus
13 since the early stages of this case and also managing the
14 interest by different parties, and reacting to those
15 interests. And, ultimately, one of the things that they did
16 was attempt to find a stalking horse bidder.

17 And through those efforts, Vanderbilt Palace was
18 identified as a potential stalking horse bidder, and indeed
19 was willing to serve as stalking horse. And the terms of
20 that proposed stalking horse deal are set forth in the
21 Debtor's application, and the proposed form of contract is
22 actually attached.

23 The purchase price for the proposed stalking horse
24 is \$8 million. We have received a deposit equal to 5
25 percent, which is consistent with the bid procedure, so

1 \$400,000. And from the Debtor's perspective, the Debtor
2 feels that the stalking horse deal at the time was fair and
3 reasonable to set a floor and encourage competitive bidding
4 and supports the approval of the proposed bid protections in
5 favor of that stalking horse.

6 To complete the record this morning -- or this
7 afternoon, rather, and in part to acknowledge the one
8 objection that was received in relation to this application
9 by the Committee, the Debtor was indeed fortunate to receive
10 four competing bids yesterday, all of which are above the
11 stalking horse number, two significantly above the stalking
12 horse number. I think it's also important to note that the
13 bid forms for at least two of those contracts are more ideal
14 in an estate-friendly way in the view of the Debtor and some
15 of the other estate constituents than the terms set forth in
16 the stalking horse agreement presently.

17 So, with all of that said, Your Honor, and to
18 complete that record, I think the Debtor's view is
19 nonetheless that Vanderbilt was willing to step up at the
20 time when others were not and set a floor and, therefore,
21 the Debtor believes that the stalking horse did, in fact,
22 serve its purpose and that Your Honor should approve the bid
23 protections as reasonable and, in essence, beneficial to the
24 estate for having done their job. Your Honor, we have other
25 --

1 THE COURT: Well, anybody else want to be heard on
2 that? On the stalking horse? If the property doesn't sell
3 for greater than the secured debt, has the secured creditor
4 agreed to a carve out for the stalking horse bid?

5 MR. SOUTHARD: Your Honor, the secured creditor
6 has not opposed the application. In essence, my
7 understanding is they do consent to this payment being made
8 from the proceeds. There hasn't been a specific formal
9 agreement on a carve out but there is consent to this
10 payment, is my understanding.

11 THE COURT: Okay.

12 MR. FRIEDMAN: For the record, Ronald Friedman
13 from Silverman Acampora for the Committee, Your Honor. Just
14 briefly in opposition. As Mr. Southard said, it was five
15 days before the bids were due. We received bids. We knew
16 from communications and correspondence that there would be a
17 high likelihood that we'd receive bids in excess of this
18 that would not have that breakup fee or bid protection. It
19 ends up being a \$160,000 expense, which Your Honor correctly
20 noted is coming from the secure creditors one way or
21 another. To the extent the estate doesn't have to bear that
22 burden, there would be additional dollars that should be
23 available for the rest of the estate and the creditor body.

24 With respect to did the stalking horse actually
25 provide a benefit to the estate, I think that would be hard

1 to prove from the stalking horse perspective at this point
2 in time given that the forms of the APAs that we received
3 from the other bidders are markedly better in terms of the
4 requirements of the estate. It actually incorporated many
5 of the revisions that had been requested by the Committee
6 and other parties in interest that had been bandied about
7 with some of the parties for weeks prior to the time of the
8 stalking horse. It's certainly a late filed stalking horse
9 -- a mere four or five days before the bids were due. And
10 with respect to the benefit of the estate, I think it
11 remains to be seen.

12 With respect to an opportunity to try to resolve
13 the matter with Mr. Frankel, we had a brief conversation
14 beforehand. I don't know that it's achievable at this point
15 in time, but certainly -- we would certainly give them the
16 right to file a claim to the extent that they can establish
17 that they provided a benefit to the estate for reimbursement
18 of some limited expenses. That may be something that would
19 be worthwhile and clearly provided under 503.

20 But with respect to the application, Your Honor,
21 we would ask that the objection be sustained, especially
22 given the fact that there are four competing bids that are
23 well in excess of this on markedly better APA terms.

24 THE COURT: UST have any position?

25 MR. YANG: Good afternoon, Your Honor. Based on

1 the additional bid that we also have seen, it appears that
2 in terms of the APA, as Mr. Friedman mentioned to Your
3 Honor, those terms are much more, I guess, acceptable to the
4 Debtors or more beneficial to the estate. So, at best, Your
5 Honor, my position is -- our position at this point is that
6 if Your Honor is inclined to even decide this issue, we'd
7 suggest that perhaps we would put it over -- adjourn it
8 after the auction and determine whether -- how benefit --
9 how much benefit the stalking horse actually was able to
10 render for this estate.

11 At this point it's very difficult to tell. Maybe
12 the stalking horse becomes the successful bidder. We don't
13 know. Maybe they decide to change their mind and change the
14 term sheets and, again, become the successful bidder. So
15 that's really our position at this point.

16 MR. FRANKEL: Your Honor, my client spent a lot of
17 time working with the Debtor to come to an agreeable
18 contract at an agreeable price. The expense reimbursement
19 and termination fees we accepted as proposed. The Debtor
20 had the choice of going forward without a stalking horse or
21 determining with the consent of its broker, advise of its
22 broker that it needed a stalking horse. On Friday of last
23 week, it decided that it needed a stalking horse. The
24 bidding deadline was Monday. They sent out a notice and all
25 of a sudden they got bids.

1 The Debtor in consultation with the broker
2 believes that -- although it's impossible to prove why
3 people bid, how much they bid, when they bid, I don't think
4 it's the Court's job or the Committee's or the U.S.
5 Trustee's to play Monday morning quarterback. The Debtor
6 had the choice to go with the stalking horse or not. They
7 decided to do it. They got the benefit of their bargain.
8 As stalking horse bidder, we should get the benefit of our
9 bargain, and we would ask that the Court grant the Debtor's
10 motion.

11 THE COURT: There are currently apparently higher
12 bids. Are you going to go above those bids?

13 MR. FRANKEL: The higher bids we were informed
14 late last night -- we got a copy a couple of hours ago of
15 the form of contract. I have to go over it with the client.
16 I don't know.

17 THE COURT: Well, if you do, then you wouldn't get
18 the stalking horse -- you wouldn't get anything anyway.

19 MR. FRANKEL: Correct but...

20 THE COURT: If you don't and they already have
21 them, you don't play any role.

22 MR. FRANKEL: We played our role. Our role is
23 finished.

24 THE COURT: No, that's a role that you decided to
25 take on as a business opportunity. I'm the only one who can

1 make it into a stalking horse. That's why you're here. And
2 you know that. So your client wanted the opportunity to be
3 a stalking horse bidder, did whatever work he had to get to
4 that spot, and it's up to me to determine whether or not
5 that provides any benefit to the estate. I'm not sure it
6 does. But if the secured -- there's not going to be any
7 credit bidding in this case. I would doubt. And if the
8 secured creditor is the only one that gets paid and there's
9 no money going to anybody else -- if he wants to pay you, he
10 can pay you, I guess.

11 But the estate's not going to pay you out of any
12 assets that would otherwise be available for any other
13 creditor. You can claim it, but I'm not going to approve a
14 stalking horse contract after bids are already in, which are
15 higher than the current... They might as well just write
16 you a check. Go call the secured creditor and have him
17 right you a check.

18 MR. FRANKEL: Your Honor, the point is that the
19 Debtor sent out the amended notice extending the bid
20 deadline with our bid as the floor. They got the benefit
21 and they should be -- the Debtor got the benefit of using us
22 as a stalking horse and they should get --

23 THE COURT: Well, you can argue subsequently down
24 the road that you have a claim, but I'm not approving a
25 stalking horse bidder and a reimbursement of expenses in a

1 case where that bidder is already lower than the other bids
2 which are already in before I ever approved it. It's
3 bizarre. I mean, you were free to do this three weeks ago,
4 four weeks ago.

5 MR. FRANKEL: The contract was signed last week.
6 The Debtor immediately put in the --

7 THE COURT: I just got -- Mark, I just got it.

8 MR. FRANKEL: Okay.

9 THE COURT: So, look, I don't see any basis in law
10 or any other cases we've done. People have enough trouble
11 with stalking horse. Again, if the secured creditor -- if
12 these creditors want to write your client a check for great
13 services rendered, I won't prevent them from doing that.
14 They're free to do it.

15 MR. FRANKEL: Well, then could you approve the
16 stalking horse fee provided that it does not affect payment
17 to creditors junior to the secured creditor?

18 THE COURT: I don't...

19 MR. SOUTHARD: I object. I object to that, Your
20 Honor. I'm not quite sure what he's saying but I still
21 object to it.

22 THE COURT: What he's saying is he's going to
23 write a check today.

24 MR. SOUTHARD: Yeah, right. I object. Nice try.

25 THE COURT: Yeah. I mean, I give you credit. We

1 have other issues on this, but I give you credit on that
2 one. But, again, if Mr. McCord, or the guy on the phone, or
3 anybody else wants to give you a check, I fully endorse Mr.
4 Frankel and his work. That's all I've got on that one,
5 though. I'm not going to go ahead in a traditional sense.
6 It would just -- it doesn't meet the standards that any of
7 us have ever used for approving stalking horse bidders.

8 Now, I don't know what else we have on today -- I
9 don't think we have much else on today.

10 MR. SOUTHARD: That's the only motion, Your Honor.

11 THE COURT: But I have my own issues in this case.
12 And there's not a broad enough audience but I'm sure you can
13 get it out.

14 MR. SOUTHARD: Sure.

15 THE COURT: The purchase agreement as well as the
16 contract that I saw between you and Vanderbilt Place (Sic)
17 have references to New York State -- New York State Court.

18 MR. SOUTHARD: Yes, Your Honor.

19 THE COURT: As a blanket statement, this Court
20 will not sign any order that in any way divests its
21 authority to another court or State Court. So, if the
22 Attorney General of the State of New York wishes to raise
23 that issue, feel free to do it. But if you're drafting
24 contracts that provide for any way, shape, or form that
25 another court can enter a decision or ruling other than the

1 appellate process within the federal system, can comment or
2 alter my order in this court, I will never sign that order.

3 MR. SOUTHARD: I appreciate that, Your Honor. I
4 think it probably makes sense for a brief discussion on this
5 subject...

6 THE COURT: Sure.

7 MR. SOUTHARD: ...if you would indulge me.

8 THE COURT: Judge Wallace issued a decision in a
9 matter similar to this...

10 MR. SOUTHARD: Yes.

11 THE COURT: ...6-7 months ago. A case called HHH
12 something. Now, his facts are different but within this
13 circuit, there is relatively little law on it -- it does
14 require, I believe, me as a federal judge to satisfy the
15 standards that appear in the state court -- state law
16 relative to the sale or transition of a not-for-profit
17 entity, loosely put. And without having studied it --
18 though I did some reading on it last night, I think that's
19 probably correct.

20 So I will apply in all likelihood those standards
21 but that decision is mine. And it will not be subject to
22 any review by a state court.

23 MR. SOUTHARD: I am familiar with the case, Your
24 Honor, and indeed we on behalf of the Debtor considered Your
25 Honor's position now stated and viewpoint now stated. We

1 also considered what had been an historical practice in
2 relation to not-for-profit bankruptcy debtors in this state
3 whereby often times the Bankruptcy Court would approve a
4 disposition of property in relation to the bankruptcy estate
5 and then a secondary, albeit often times considered to be
6 somewhat of a rubber stamp would occur in relation to the
7 New York not-for-profit law approvals that the Attorney
8 General's Office through its Charities Bureau would
9 generally insist upon.

10 And, indeed, we had some discussions with the
11 Charities Bureau prior to the case and prior to the filing
12 of our motion, and our motion, I would submit to Your Honor,
13 is not entirely clear as to the direction the Debtor
14 intended to take on that issue. And we have since that time
15 had further discussions with the Attorney General's Office
16 and their office is of the view that, notwithstanding the
17 case law that we've just referenced, that Judge Wiles ruled
18 on, that they would insist on the Debtor seeking that State
19 Court approval.

20 THE COURT: How are they going to do that?

21 MR. SOUTHARD: It's not entirely clear to me, Your
22 Honor, but --

23 THE COURT: I welcome them to file papers.

24 MR. SOUTHARD: We, on behalf of the Debtor, were
25 of... Let me also say that the Attorney General's Office

1 did convey to us a willingness to work closely with us to
2 shepherd through that process in an efficient way that would
3 not disrupt our timeline that we assured them was important
4 to us to close a deal. And --

5 THE COURT: My issue is not time; my issue is
6 legal principle.

7 MR. SOUTHARD: I understand, I understand.

8 THE COURT: I have a very strong sense of what the
9 Federal Courts do and what the State Courts do. I don't
10 care whether that -- how people massage around it; there's
11 nothing going to be in an order that I sign that can be
12 interpreted in any way as that order not being final. Not
13 appealable -- I mean, they can appeal in the federal system.
14 And if you want to take it over and have a State Court judge
15 read it to see if he likes it, that's okay with me. But I
16 don't care what his answer is. I don't know how to say it
17 more plainly. And if there's anything in the orders that
18 implies that, it's coming out.

19 And if the Attorney General of the State of New
20 York, or the State of New York has a problem with that,
21 they're free to come in. Put papers in like everybody else.

22 MR. SOUTHARD: I appreciate Your Honor's position
23 and I understand --

24 THE COURT: I've made -- look, I've made this
25 position clear. I have a very large charity in front of you

1 -- the next case. This is an issue that's rampant in that
2 case. Most of the time it comes out correct. But it is an
3 issue that I at least am very passionate about in ensuring
4 that we maintain the integrity of our court system. And the
5 fact that for one reason or another they may prefer
6 something, it's okay -- I'm just not doing it.

7 MR. SOUTHARD: I understand.

8 THE COURT: So, I don't want anybody to waste
9 time. And if they intend to come in and object, they should
10 do it sooner. If the sale takes place and I sign an order
11 and their goal is to just interfere with the process, we're
12 going to have other problems.

13 So, they're on notice. There's nothing in front
14 of me today on this issue. There's no... But we did notice
15 that on at least four separate occasions there's a reference
16 to the New York State Supreme Court. It doesn't say you
17 have to but it's vague, which I guess was done
18 intentionally. And I'm just suggesting that you pass on
19 that vagueness is irrelevant to me. It's not happening.

20 MR. SOUTHARD: I do appreciate Your Honor's
21 comments and we most definitely will pass them on. I will
22 make sure the transcript is provided to them.

23 THE COURT: Yeah, they have whatever rights and
24 they have -- I'm sure they believe their position, but
25 that's why we settle these things in courts. And this is

1 the only place they can go right now.

2 MR. SOUTHARD: I understand. I will just say that
3 I desire to find a path of least resistance that will permit
4 us to close timely a sale, and I'm hopeful that the Attorney
5 General's Office will also see the wisdom --

6 THE COURT: Well, unless they can figure out how
7 to interfere with my order, then it's simple.

8 MR. SOUTHARD: I don't want them to encourage them
9 to do that.

10 THE COURT: No, no, no, no. But they have the
11 same rights of appeal, if they have the standing, and the
12 same rights of appeal as anybody else. So -- and they have
13 -- I would urge them to make that issue and let us deal with
14 the issue if it's going to -- if the way to make an issue,
15 as quickly as possible. It is not, in my mind, useful for
16 anyone to think you can do this by ambush. We've identified
17 the question. I'm putting it right on the record. Show
18 them the transcript. Have the issue, I'm welcome to hear
19 it.

20 I think my understanding is what I've just said.
21 If they can convince me otherwise, that would be fine too.
22 And they also have the complete appellate process. But I
23 think in the interest of the project, the Debtor, and the
24 numerous people involved in this case, don't -- they should
25 not do this in any way other than straight up and do it.

1 File your papers if you want. Otherwise I'm not going to
2 have any objections.

3 MR. SOUTHARD: Thank you, Your Honor, that's a
4 helpful record to share.

5 THE COURT: Yeah, and I want -- and I thought...
6 Anyway, that's all I've got on that.

7 MR. SOUTHARD: No, I think that's most helpful and
8 I will undoubtedly share that promptly. Your Honor, a
9 couple of other items of a similar nature that I wanted to
10 mention today. New York State Department of Education also
11 reached out to us after viewing the stalking horse form of
12 proposed agreement and wanted to be clear, and I would like
13 to just state this on the record today so that it is clear,
14 that the Debtor is not attempting to assign any charter or
15 right to accreditation to operate an educational --

16 THE COURT: I think that was a comment that I saw
17 in the redline version that the Committee signed.

18 MR. SOUTHARD: It is, Your Honor.

19 THE COURT: They made that an item that would be
20 excluded from the transfer.

21 MR. SOUTHARD: They did, and that was based on
22 this request of the state. So I just wanted that to be
23 clear that that will be in the form of agreement that we
24 will use to bid at the auction.

25 Your Honor, in addition, I wanted to mention that

1 we have moved the auction to an alternative location on Long
2 Island. It will be actually held at Mr. McCord's offices in
3 East Meadow, which is considered to be a more appropriate
4 venue in light of the parties that will be participating --
5 which we expect to be, at this point, just the approved and
6 qualified bidders and the estate parties that have a role in
7 assessing those bids. It is not our intention to make it an
8 open forum for any and all parties --

9 THE COURT: In terms of the bid, you've got to be
10 a qualified bidder, so...

11 MR. SOUTHARD: That's correct, Your Honor. So,
12 those are the sort of ancillary items that I wanted to
13 mention. We are encouraged obviously by the bids that we
14 have received. It would appear that we should be headed for
15 a spirited auction and we appreciate Your Honor's
16 flexibility in hearing us today on short notice.

17 THE COURT: Yeah, I think this is an important --
18 not the dollar value, but it's important. I think there are
19 an awful lot of folks in that community and on Long Island
20 who have interests in, if not financial, they have interests
21 in the future of this property, the future of that building
22 out there. A lot of people have different views of what it
23 should be but -- so I think it should be done as open as
24 possible. And I think we should accommodate as well as we
25 can so that the analysis of what is the highest and best,

1 which normally is simple but in these kind of deals may not
2 be, and be done openly and transparently.

3 And I think you guys have done a good job of that.
4 Plenty of people know about this. It's a different kind of
5 property, obviously. So, see where we go. But, again, I
6 don't want... I would prefer not to have surprise
7 interference. They know -- if the agent knows what he
8 wants, just do it. If you can accommodate him by saying,
9 "We'll show you this before the judge signs it," you can do
10 that, too. As long as it's --

11 MR. SOUTHARD: We most certainly would not have a
12 problem with that approach.

13 THE COURT: But it's just -- my position is one of
14 principle. I'm not going to have the process of this Court
15 altered for what I believe goes back 200 and some odd years.
16 I'm just not going to do it.

17 MR. SOUTHARD: Thank you, Your Honor.

18 MR. MCCORD: Your Honor, I understand what the
19 bidding procedure order says and I'm just concerned that
20 there are going to be laypeople with all sorts of
21 backgrounds...

22 THE COURT: There will.

23 MR. MCCORD: ...that may possibly want to attend
24 this auction. And if they're prohibited from doing so, I'm
25 afraid they'll come before this Court and say that something

1 embarrassing is going on because we weren't allowed to even
2 observe.

3 So, we discussed this before today and we're
4 respectfully seeking input from you because this is your
5 court and this is your case. And that's a concern we all
6 have, is that it's only qualified bidders -- it's going to
7 be obviously a very limited number of people, plus all the
8 estate representatives. But we anticipate there will be
9 people, parties, professionals that may want to come and
10 observe and possibly (indiscernible) the outcome of the
11 auction.

12 THE COURT: Yeah. I would... We've all done
13 these. And there are cases where you make it as difficult
14 as possible for people to get in there. We know that most
15 of the folks you're talking about have no -- they're not
16 going to bid. And, in fact, they will want to speak, and
17 you'll have to explain why they can't.

18 I think it may end up to be relatively
19 inconvenient to do it at a law firm. I think you're going
20 to have people coming up into the waiting room, and then
21 you're going to either ask them to leave and it can become a
22 mess. We -- if you wanted to do it out here, we can give
23 you a courtroom to do it in. I don't do auctions, but we
24 could make a courtroom in this building where we have, you
25 know, ways of maintaining order and yet it would also give

1 people a sense that they can watch the process.

2 MR. SOUTHARD: Your Honor, from the Debtor's
3 perspective, we have less of a concern with watching the
4 process and more of a concern with the potential for
5 disruption.

6 THE COURT: There isn't. And I think in a
7 building like this where we can control that better than you
8 can in a private setting and people are much less likely in
9 a federal building to go beyond certain decorum -- well, we
10 may be fooled. Nobody shows up. But my sense is there have
11 literally been several thousand people signing petitions.
12 I'm aware -- and they don't even know what's happening with
13 the property.

14 But a lot of these folks have an enormous amount
15 of their life tied up in this area. These houses, as you
16 know, they're relatively small -- they're nice houses.
17 They're around there, interspersed with property. They've
18 lived there for as long as this school has been there, and
19 they've heard things: It can become a mall, become a
20 homeless shelter. And, yeah, you may have people -- and
21 you're going to have to explain that's not the right setting
22 for it. And, if necessary, then you'll have to leave.

23 I would rather not have that at Mr. McCord's
24 office and have them come over here and say I was thrown out
25 of that office in... But it's up to you.

1 MR. MCCORD: Your Honor, what we envision doing at
2 that location is we have a lower level where we have a
3 conference room that can hold at least 100 people, probably
4 more. It's as big as the cafeteria downstairs. We were
5 also planning on making available the professional breakout
6 rooms in the two floors that the firm's in --

7 THE COURT: That's fine.

8 MR. MCCORD: And then also have potential security
9 but escorts. And it would be in an area that's away from
10 the general operations of the firm --

11 THE COURT: I'm just making this available. That
12 sounds fine, too.

13 MR. MCCORD: My concern is not security, my
14 concern is not the type of disruption that you were just
15 referring to; my concern is -- and it's not even the
16 students and professors or whatever, it's other
17 professionals that are going to come. The media, for
18 example. How are you going to stop Richard McCord from
19 coming in and letting the reporter from Newsday in, or not
20 letting the report from Newsday in? That's what I'm worried
21 about is that they're going to come hit you and say, "What's
22 going on? Why can't I even sit in and observe?" They don't
23 know what the law is. They would probably -- half of them
24 haven't dealt with a federal --

25 THE COURT: You can only do two things: You can

1 do it there... I'm making this available. After that I'm
2 out of options. I'm not going to do it. I don't do
3 auctions.

4 MR. SOUTHARD: I appreciate that, Your Honor. And
5 I appreciate the offer, and we will discuss and consider
6 that as an alternative under the circumstances. And your
7 comments are helpful.

8 THE COURT: Yeah, I mean, we're here. You can do
9 it here. Then if somebody has a question, I'm here. You
10 can do it there and you can get me on the phone. You can do
11 any number of things. I know we used to do auctions many --
12 some of you guys know -- many, many years ago when I was a
13 lawyer and then later on... I don't think many judges
14 conduct their own auctions in the circuit anymore since
15 Judge Blackshear sold the Baltimore Orioles. And I'm not
16 going to start again.

17 So, any way we can help you with it. I do agree
18 that I would like it to be as transparent as possible.
19 There are people who will listen and there are people who
20 won't listen, no matter what you tell them. They're just
21 not going to listen. But, you know, we'll get through it.
22 We get through a lot of things.

23 So the sale is taking place Wednesday? Tuesday?
24 Wednesday?

25 MR. SOUTHARD: Tuesday at 11 o'clock is the

1 auction.

2 THE COURT: And then you're due in here on April
3 10th?

4 MR. SOUTHARD: Correct, Your Honor. With
5 objections currently due on the 6th.

6 THE COURT: And is there a form of contract that
7 each bidder has given you that you work with?

8 MR. SOUTHARD: Your Honor, we received -- we put
9 out an ideal form and, by in large, that form has been
10 adopted. Each bidder has entered into slightly
11 modifications that we're discussing with them, trying as
12 best we can to bring all bids on an apples to apples kind of
13 basis.

14 THE COURT: And no sale order requires me to enter
15 any order that affects usage? Easement, zoning, anything
16 like that?

17 MR. SOUTHARD: No, Your Honor.

18 THE COURT: Okay. Okay.

19 MR. SOUTHARD: Well, thank you very much for your
20 time today, Your Honor.

21 THE COURT: Thank you.

22 MR. MCCORD: Thank you, Your Honor.

23 THE COURT: Okay. Let us know -- just
24 logistically, because we've got to let the marshals know if
25 we're going to have people coming in.

1 MR. SOUTHARD: We will discuss it promptly.

2 THE COURT: So, that can be Monday. It doesn't
3 have to be... We don't need much warning on it. All right?
4 Thank you.

5 MR. SOUTHARD: Thank you very much.

6 THE COURT: Court's adjourned. Sorry.

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.

Sonya
Ledanski Hyde

Digitally signed by Sonya Ledanski
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Date: March 31, 2017

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